

EXHIBIT A

The Honorable Robert J. Bryan

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON**

UNITED STATES OF AMERICA,

No. 2:20-cv-203

Plaintiff,

v.

KING COUNTY, WASHINGTON; DOW
CONSTANTINE, in his official capacity as
King County Executive

**PLAINTIFF'S OBJECTIONS AND
RESPONSES TO DEFENDANT
KING COUNTY'S FIRST SET OF
DISCOVERY REQUESTS**

Defendants.

Pursuant to Federal Rules of Civil Procedure 26, 33, and 34, Plaintiff, the United States of America ("the Government"), through their undersigned counsel, submit initial objections and responses to Defendants' First Set of Discovery Requests, served March 30, 2020.

In presenting these objections and responses, and agreeing to search for responsive documents, the Government does not waive any further objection in discovery, pretrial motions practice, or at trial to the admissibility of evidence on the grounds of relevance, materiality, privilege, competency, or any other appropriate ground. In particular, the Government maintains that judgment on the pleadings is appropriate in this case, and does not waive this argument by responding to Defendants' requests as directed by the Court. The Government will supplement these objections and responses as appropriate pursuant to Federal Rule of Civil Procedure 26(e).

1 “immigrant detainee” to mean “detained alien” as defined under 8 U.S.C. § 1101(a)(3). The
 2 Government further objects that the “concerns” of FBOs are not relevant to the claims or defenses
 3 in this case. The Government further objects that this interrogatory seeks the identity of “every
 4 FBO,” with no geographic limit, over a four-year time period, and is therefore overbroad, unduly
 5 burdensome, and disproportionate to the needs of the case. The Government further objects that
 6 the interrogatory seeks information in the possession, custody, or control of Defendants or third
 7 parties and can therefore be more readily obtained through other discovery mechanisms. The
 8 Government further objects that this interrogatory is not necessary to resolution of the
 9 Government’s motion for judgment on the pleadings.

10 **Response:** The Government contracts with a chartering firm, Classic Air Charter, that
 11 works with air carriers and FBOs to arrange for flights on behalf of ICE Air Operations. Classic
 12 Air Charter reported that fixed-base operators at Boeing Field in King County, Washington, and
 13 Paine Field in Snohomish County, Washington, refuse to service ICE Air flights. On May 2,
 14 2019, Classic Air Charter reported that the following fixed base operators at Boeing Field refuse
 15 to provide services for ICE Air flights: Modern Aviation (formerly Clay Lacy), Signature
 16 Aviation, and Ken-Moore Aero. On May 3, 2019, Classic Air Charter reported that the fixed-
 17 base operator at Paine Field, Castle and Cooke, refuses to provide services for ICE Air flights.

18 **Interrogatory No. 5:** Identify every third party of which You are aware that has been
 19 involved in Your transportation of immigration detainees, including those with which the United
 20 States has contracted, at any time during the Relevant Time Period.

21 **Objections:** The Government objects that the term “involved” is not defined and is
 22 susceptible to multiple interpretations, and is therefore vague and ambiguous. The Government
 23 further objects to the term “immigration detainees” because it is not defined, vague and
 24 ambiguous, and susceptible to multiple interpretations. The Government will interpret
 25 “immigrant detainee” to mean “detained alien” as defined under 8 U.S.C. § 1101(a)(3). The
 26 Government further objects that this interrogatory, which seeks the identity of “every third party,”

1 with no geographic limit, over a four-year period, seeks irrelevant information and is overbroad,
 2 unduly burdensome, and disproportionate to the needs of the case. The Government further
 3 objects that the interrogatory seeks information in the possession, custody, or control of third
 4 parties, and can therefore be more readily obtained through other discovery mechanisms. The
 5 Government further objects that this interrogatory is not necessary to resolution of the
 6 Government's motion for judgment on the pleadings.

7 In light of these objections, the Government will limit its answer to entities with which it
 8 has a formal, contractual relationship relevant to operating ICE Air flights related to its operations
 9 in the State of Washington.

10 **Response:** The Government contracts with a chartering firm, Classic Air Charter, which
 11 in turn arranges for air carriers and aeronautical services, including onboard crew, guard services,
 12 and medical services, from various subcontractors. The Government also contracts with The
 13 GEO Group, Inc., which provides detention services, including transportation in the Northwest
 14 region.

15 **Interrogatory No. 6:** Identify every airport in the United States that has been used for
 16 ICE Air Operations, as that term is used in the complaint, at any time during the Relevant Time
 17 Period, specifically stating the periods during which every such airport was used to conduct ICE
 18 Air Operations.

19 **Objections:** The Government objects to this interrogatory for production to the extent it
 20 seeks information protected by privileges, including the attorney-client privilege, the deliberative
 21 process privilege, the work product doctrine, the law enforcement or investigatory files privilege,
 22 the Privacy Act, and any other applicable privileges. The Government further objects that this
 23 interrogatory, which seeks the identity and duration of use of "every airport" over a four-year
 24 period, with no geographic scope, seeks information that is not relevant to the case and is
 25 overbroad, unduly burdensome, and disproportionate to the needs of the case. The Government
 26

1 Government further objects that this interrogatory is not necessary to resolution of the
 2 Government's motion for judgment on the pleadings.

3 **Response:** After being told by fixed-base operators at Boeing Field that they would no
 4 longer service ICE Air flights, ICE officials initially made efforts to secure an alternate site for
 5 ICE Air flights at Paine Field in Everett, Washington; Bellingham International Airport in
 6 Bellingham, Washington; and Seattle-Tacoma International Airport in Seattle, Washington,
 7 without success. Yakima Air Terminal was the first and closest airport to affirmatively respond
 8 when requested to accommodate ICE flights. ICE also considered Portland International Airport
 9 in Portland, Oregon, but Portland is a similar distance from the Northwest Detention Center in
 10 Tacoma as Yakima, and would present similar issues in terms of drive times and expenses.

11 **Interrogatory No. 13:** Identify and describe in detail all facts supporting Your contention
 12 in paragraph 7 of the complaint that "[t]his relocation has restricted ICE's operations, such that it
 13 interferes with ICE's ability to enforce federal immigration law."

14 **Objections:** The Government objects to this interrogatory to the extent it seeks
 15 information protected by privileges, including the attorney-client privilege, the deliberative
 16 process privilege, the work product doctrine, the law enforcement or investigatory files privilege,
 17 the Privacy Act, and any other applicable privileges. The Government further objects to the
 18 relevance of this interrogatory insofar as the question of burden is legal, not factual. The
 19 Government objects to the phrase "detail all facts supporting Your contention in paragraph 7" as
 20 overbroad, unduly burdensome, and disproportionate to the needs of the case. The Government
 21 further objects that this interrogatory is not necessary to resolution of the Government's motion
 22 for judgment on the pleadings.

23 **Response:** ICE conducts flights at least once a week during normal operations, and it was
 24 often necessary to have a second flight during the spring and summer of 2019 due to the influx of
 25 aliens at the Southwest border. Transporting detainees from Tacoma to Yakima, as compared to
 26 Tacoma to Boeing Field, adds, at a minimum, six hours of travel time to the process of executing

1 an ICE Air flight. Additionally, the transport to Yakima and back frequently requires the use of
 2 an additional bus and two additional officers, as well as additional meal and fuel costs. This takes
 3 resources away from federal law enforcement tasks that would otherwise be performed if the ICE
 4 Air flights were flying out of Boeing Field. Relocation of the ICE Air flights to Yakima also
 5 impacts ICE operations in Yakima, requiring ICE to utilize staffing of at least two officers from
 6 its Yakima sub-office to facilitate the flight processing in Yakima. Additionally, travel over the
 7 mountain passes in winter is hazardous, and frequently either slowed significantly by road
 8 conditions or suspended altogether, as was the case on January 14, 2020, when an ICE Air flight
 9 had to be cancelled due to road conditions prohibiting transport.

10 **Interrogatory No. 14:** Identify Your employees or agents who are most knowledgeable
 11 about all facts and circumstances related to your response to Interrogatory No. 13.

12 **Objections:** The Government objects that this interrogatory is duplicative of other rules
 13 and requirements of discovery, including initial disclosures and interrogatory verifications. The
 14 Government further objects to this interrogatory to the extent it seeks information protected by
 15 privileges, including the attorney-client privilege, the deliberative process privilege, the work
 16 product doctrine, the law enforcement or investigatory files privilege, the Privacy Act, and any
 17 other applicable privileges. The Government further objects to the phrase “all facts and
 18 circumstances related to your response to Interrogatory No. 13” as overbroad, unduly
 19 burdensome, and disproportionate to the needs of the case. The Government further objects that
 20 this interrogatory is not necessary to resolution of the Government’s motion for judgment on the
 21 pleadings.

22 **Response:** The Government directs Defendants to the Government’s Initial Disclosures
 23 and to the verifications for these interrogatory responses for identification of individuals
 24 knowledgeable about the facts and circumstances underlying the responses to these
 25 Interrogatories.
 26

1 **Response:** Subject to and without waiving the above objections, the Government will
 2 conduct a reasonable search for documents in its possession, custody, or control for documents
 3 responsive to Defendants' request, and produce those non-privileged, responsive documents
 4 yielded by that search on a rolling basis following entry of a protective order, if necessary, and an
 5 agreement regarding electronically stored information.

6 As to the responses to Defendants' interrogatories, please see the signed verifications
 7 attached as Exhibit A.

8 As to the objections to Defendants' interrogatories, and the responses and objections to
 9 Defendants' requests for production:

10 Respectfully submitted,

April 29, 2020

11 JOSEPH H. HUNT
 12 Assistant Attorney General

13 BRIAN T. MORAN
 14 United States Attorney

15 ALEXANDER K. HAAS
 16 Director

JACQUELINE COLEMAN SNEAD
 Assistant Branch Director

17 /s/ Michael J. Gerardi
 18 Michael J. Gerardi (D.C. Bar No.
 19 1017949)
 20 Trial Attorney
 21 United States Department of Justice
 22 Civil Division, Federal Programs
 23 Branch
 24 1100 L St. NW, Room 12212
 25 Washington, D.C. 20005
 26 Tel: (202) 616-0680
 Fax: (202) 616-8460
 E-mail: michael.j.gerardi@usdoj.gov

Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on April 29, 2020, a copy of the document above was served by email on the following:

Timothy G. Leyh
Shane P. Cramer
Kristin E. Ballinger
Harrigan Leyh Farmer & Thomsen LLP
999 Third Avenue, Suite 4400
Seattle, WA 98104
Tel: (206) 623-1700
Fax: (206) 623-8717
Email: timl@harriganleyh.com
shanec@harriganleyh.com
kristinb@harriganleyh.com

H. Kevin Wright
Timothy P. Barnes
King County Prosecuting Attorney's Office
516 Third Avenue, Suite W400
Seattle, WA 98104
Tel: (206) 477-1120
Fax: (206) 296-0191
Email: kevin.wright@kingcounty.gov
timothy.barnes@kingcounty.gov

/s/Michael J. Gerardi
Michael J. Gerardi (D.C. Bar No. 1017949)
Trial Attorney
United States Department of Justice
Civil Division, Federal Programs Branch
1100 L St. NW, Room 12212
Washington, D.C. 20005
Tel: (202) 616-0680
Fax: (202) 616-8460
E-mail: michael.j.gerardi@usdoj.gov

VERIFICATION OF INTERROGATORY ANSWERS

I, Benjamin Shih, am a Section Chief within the Detention, Compliance & Removals Division for the Office of Acquisition Management for the United States Immigration and Customs Enforcement, within the Department of Homeland Security. I believe, based on a reasonable inquiry, that the foregoing answers to Interrogatory Numbers 1, 5, and 20 are true and correct to the best of my knowledge, information, and belief.

I verify under penalty of perjury that the foregoing is true and correct.

Executed on April 29, 2020.



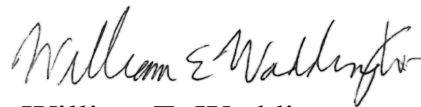
Benjamin Shih
Section Chief
Detention, Compliance & Removals
Office of Acquisition Management
Immigration and Customs Enforcement
Department of Homeland Security

VERIFICATION OF INTERROGATORY ANSWERS

I, William E. Waddington, am a Management and Program Analyst for ICE Air Operations for Enforcement and Removal Operations, United States Immigration and Customs Enforcement, within the Department of Homeland Security. I believe, based on a reasonable inquiry, that the foregoing answers to Interrogatory Numbers 1, 3, 4, 5, 6, 7, 8, 10, 11, 12, 15, 17, 18, 19, 20 are true and correct to the best of my knowledge, information, and belief.

I verify under penalty of perjury that the foregoing is true and correct.

Executed on April 29, 2020.

A handwritten signature in cursive script, reading "William E. Waddington".

William E. Waddington
Management and Program Analyst
Enforcement and Removal Operations
Immigration and Customs Enforcement
Department of Homeland Security

VERIFICATION OF INTERROGATORY ANSWERS

I, Bryan S. Wilcox, am Deputy Field Office Director for Enforcement and Removal Operations, Seattle, Washington, United States Immigration and Customs Enforcement, within the Department of Homeland Security. I believe, based on a reasonable inquiry, that the foregoing answers to Interrogatory Numbers 1, 2, 13, 14 and 16 are true and correct to the best of my knowledge, information, and belief.

I verify under penalty of perjury that the foregoing is true and correct.

Executed on April 29, 2020.



Bryan S. Wilcox
Deputy Field Office Director
Enforcement and Removal Operations
Immigration and Customs Enforcement
Department of Homeland Security